

NEW YORK TIMES
25 OCTOBER 1975

Mitchell Denies He Knew of Mail Opening

By NICHOLAS M. HORROCK
Special to The New York Times

WASHINGTON, Oct. 24—Former Attorney General John N. Mitchell told a Senate committee under oath today that officials of the Central Intelligence Agency and Federal Bureau of Investigation had never told him that the agencies were secretly opening mail.

His testimony before the Senate Select Committee on Intelligence appeared to conflict with a statement made Wednesday by Richard Helms, former director of the C.I.A., who

testified that he advised Mr. Mitchell of the mail-opening project in June, 1970.

Mr. Helms said he had told the Attorney General about a "mail cover" and acknowledged that "in those times I'm not sure the Attorney General knew the difference" between "mail cover" and actual mail opening.

A mail cover, Mr. Mitchell testified, meant to him that security agencies photographed the exteriors of the envelopes to obtain the names of the addressees and addressers. Mr.

Helms, however, said on Wednesday that he presumed from the context of the conversation that Mr. Mitchell knew the C.I.A. was opening mail.

The committee chairman, Frank Church, Democrat of Idaho, told reporters that while there was an obvious conflict in Mr. Mitchell's and Mr. Helms's testimony, he was not prepared to accuse either man of lying.

"There is no basis on which I could make such a charge in view of the possibility they might just have misunderstood each other," Mr. Church said.

The committee also made public today documents that indicated that Nicholas de B. Katzenbach, Attorney General under President Johnson, may have known that the F.B.I. was opening mail. Committee sources said that Mr. Katzenbach would be asked to testify publicly on the matter.

In a memorandum written on March 2, 1965, J. Edgar Hoover, then director of the F.B.I., said that Mr. Katzenbach had talked to Senator Edward V. Long, Democrat of Missouri, about keeping information on mail openings out of hearings. Mr. Long was then conducting in the Senate.

The Attorney General, according to the memo, said that Bernard Fensterwald, then counsel of Mr. Long's committee, "had some possible witnesses who are former bureau agents and if they were asked if mail was opened, they would take the Fifth Amendment."

"The Attorney General stated that before they are called, he would like to know who they are and whether they were ever involved in any program touching on national security and, if not, it is their own business, but if they were, he would want to know," Mr. Hoover's memorandum said.

In a telephone interview late today, Mr. Katzenbach said he had "never heard" that either the C.I.A. or the F.B.I. was opening the mail and he suspected he had not been told because the "process is illegal." He said he had believed the intrusion upon the mail system was only to conduct a "mail cover," which he said was legal in both criminal and national security cases.

and C.I.A. documents have indicated that agency officials throughout the years knew the process was illegal. Moreover, one C.I.A. document showed, they had serious doubt that in peacetime even the President had the power to authorize the activity.

F.B.I. officials testified today that the bureau tended over a 26-year period to ignore the question of whether the openings were illegal. The question was discussed only once, in 1951, three former officials said.

The F.B.I. conducted mail-opening projects in eight cities apparently without the approval of any Attorney General and without a warrant from a court.

The F.B.I. legally opens mail in certain criminal cases after obtaining a court order.

No figures for the amount of mail the F.B.I. opened were given.

F.B.I. officials testified today that J. Edgar Hoover, while director of the bureau, halted the mail-opening project in 1966. W. Raymond Wannall, now chief of intelligence at the bureau, speculated that Mr. Hoover may have discontinued the top secret project because he had "a regard for the climate of the times." He implied that Mr. Hoover might have come to the conclusion that the political climate would not justify the illegal operation.

Project Lasted Till '73

The C.I.A. did not stop its mail opening until 1973. Mr. Helms testified on Wednesday that the only Attorney General he ever briefed about mail openings was Mr. Mitchell, in the session that Mr. Mitchell now disputes.

Mr. Mitchell said that in June, 1970, he did have a 22-minute meeting with Mr. Helms on a subject he declined to reveal for national security reasons. He has told the committee about it in executive session. Congressional sources indicated that Mr. Helms had been briefing Mr. Mitchell on aspects of electronic eavesdropping used by the National Security Agency in tracking antiwar radicals.

continued